

# **EXHIBIT 3**

Cause No.DC-11-01414-K

KEN LAFFIN, DAVID WANTA, and  
REBECCA BURGWIN, Individually and  
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

NATIONAL FOOTBALL LEAGUE,  
COWBOYS STADIUM, G.P., LLC,  
COWBOYS STADIUM, L.P., DALLAS  
COWBOYS FOOTBALL CLUB, LTD.,  
AND JWJ CORPORATION,

Defendants.

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

192nd JUDICIAL DISTRICT

**PLAINTIFFS' FIRST AMENDED CLASS ACTION PETITION**

Plaintiffs Ken Laffin, David Wanta, and Rebecca Burgwin, individually and on behalf of all others similarly situated, (collectively, the "Plaintiffs") respectfully show the Court as follows:

**DISCOVERY PLAN**

1. Due to the complexity of this case, Plaintiffs request that discovery be conducted under a Level 3 Discovery Control Plan.

**PARTIES**

2. Plaintiffs Ken Laffin, David Wanta, and Rebecca Burgwin, are, and at all times relevant hereto, were ticketholders to the Super Bowl who were denied the seats they purchased and denied equivalent seats. Plaintiffs Laffin and Wanta are residents of Wisconsin and fans of the Green Bay Packers. Plaintiff Burgwin is a resident of Wisconsin and a fan of the Pittsburgh Steelers.

3. Defendant National Football League (the “NFL”) is an unincorporated association of thirty-two Member Clubs, including the Dallas Cowboys, each of which owns and operates a professional football team. The NFL’s principal office is located at 280 Park Avenue, New York, NY 10017 and may be served there or wherever its executives may be served.

4. Defendant Cowboys Stadium GP (“CSGP”) is a limited liability company whose principal place of business is in Dallas County, Texas. CSGP may be served through its registered agent for service of process, the CT Corporation System 350 N. St. Paul, Suite 2900, Dallas, Texas 75021-4234.

5. Defendant Cowboys Stadium LP (“CSLP”) is a limited partnership whose principal place of business is in Dallas County, Texas. CSLP may be served through its registered agent for service of process, the CT Corporation System 350 N. St. Paul, Suite 2900, Dallas, Texas 75021-4234.

6. Defendant Dallas Cowboys Football Club, Ltd., (the “Dallas Cowboys”) is a Texas limited partnership whose principal place of business is in Dallas County, Texas. The Dallas Cowboys may be served through its registered agent for service of process, the CT Corporation System, 350 N. St. Paul., Suite 2900, Dallas, Texas 75021-4234.

7. Defendant JWJ Corporation (“JWJ”) is a corporation whose principal place of business is in Dallas County, Texas. JWJ may be served through its registered agent for service of process, the CT Corporation System, 350 N. St. Paul., Suite 2900, Dallas, Texas 75021-4234.

#### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the National Football League, Dallas Cowboys Football Club Ltd. (the “Dallas Cowboys”), Cowboys Stadium, G.P., LLC (“CSGP”), Cowboys Stadium, L.P. (“CSLP”) and JWJ Corporation (“JWJ”) because they all conduct business in

Dallas County, Texas. The Dallas Cowboys, CSGP, CSLP, and JWJ maintain their principal places of business in Dallas County, Texas.

9. The Court has jurisdiction over the National Football League because it conducts business in the State of Texas and has regular and systematic contacts with the State of Texas.

10. Venue is proper in this Court because the conduct at issue and decisions to cause the conduct at issue took place and had an effect in this County.

**FACTS APPLICABLE TO ALL CAUSES OF ACTION**

11. This is a case brought by individuals who were wrongly deprived of the right to participate in what promised to be a great event, Super Bowl XLV (the “Super Bowl”). These individuals, who all acquired tickets to the game and who all relied on the fact that there would be reserved seats for them at Cowboy’s Stadium, were all damaged by the Defendants’ misrepresentations, omissions, and concealment of the cruel truth, which was that they had been sold tickets for seats that did not exist at the time and that were never to be had. The Defendants knew (or should have known) that these fans had bought tickets for seats that did not exist, but the Defendants concealed those material facts from the Plaintiffs, causing damages far beyond mere disappointment, but encompassing financial losses and consequential damages.

12. This action is the result of the Defendants’ breach of contract, fraud, negligence, gross negligence, and their conspiracy to induce the Plaintiffs to purchase tickets to Super Bowl XLV even though the seats purportedly reserved for the Plaintiffs did not—and would never—exist.

13. Based on revelations following the game, it is clear that the Defendants knew or should have known at least a week before the Super Bowl that the Plaintiffs’ seats were threatened or illusory. However, the Defendants concealed these facts and failed to inform the

Plaintiffs of the truth. After the fact, the NFL has conceded that it is responsible for the result that the Plaintiffs suffered.

14. After braving unusually difficult weather conditions, the Plaintiffs, more than 2,400 ticket holders who arrived at Cowboy's Stadium (the "Stadium") for the Super Bowl, were informed that their seats were unavailable by National Football League ("NFL") officials, or by being handed an unsigned letter stating that their seats were unavailable.

15. According to an NFL executive vice president, the NFL realized a week before the Super Bowl that the absence of guard rails on stairways leading to the seats identified in the tickets could result in Plaintiffs' being unable to sit in the seats identified in their tickets. However, the NFL (and the other Defendants) did nothing to advise the Plaintiffs of their plight.

16. Defendants CSLP, CSGP, and JWJ all knew or should have known about the problems with the phantom seats that were identified on the Plaintiffs' tickets. However, CSLP, CSGP, and JWJ were all interested in maximizing their revenue and achieving record attendance levels for the first Super Bowl held at the new Stadium. They remained silent and complicit in the NFL's malfeasance.

17. As a direct and proximate result of the Defendants' actions and inactions, the Plaintiffs were denied goods lawfully purchased. They were also humiliated, defrauded, and denied a once in a lifetime experience—watching a classic match-up between the Green Bay Packers and Pittsburgh Steelers.

18. In pursuing the goal of selling as many tickets as possible, even for seats that did not exist, the Defendants placed their own pecuniary interest before the interests of football fans who sought to enjoy a little bit of history.

**CLASS ACTION ALLEGATIONS**

19. Plaintiffs bring this action under Texas Rule of Civil Procedure 42 as a class action on behalf of all holders of tickets to the Super Bowl harmed by Defendants' actions described below (the "Class").

20. This action is properly maintainable as a class action.

21. There are questions of law and fact that are common to the Class and that predominate over questions affecting any individual Class member. The common questions include the following:

- a. Whether the Defendants allowed tickets for seats that did not exist or were not available for the Super Bowl to be sold and put into the stream of commerce;
- b. Whether the Defendants engaged in improper conduct with respect to the sale and marketing of the tickets, and whether they acted unconscionably after the tickets were sold;
- c. Whether contractual obligations relating to the tickets were violated;
- d. Whether the Defendants committed fraud against the members of the class;
- e. Whether the Defendants were unjustly enriched at the expense of the members of the class;
- f. Whether the Defendants improperly concealed withheld information and failed to notify the Class that the seats identified in the tickets were, or would be, unavailable; and
- g. Whether Defendants engaged in a conspiracy to conceal their wrongdoing and mislead the Class.

22. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

23. Plaintiffs bring this action on their own behalf, and as a class action on behalf of the Class defined herein, pursuant to Texas Rule of Civil Procedure 42. The Classes consist of ticket holders to Super Bowl XLV victimized by Defendants' wrongful conduct. Specifically, Plaintiffs bring this suit on behalf of the following two Classes:

**The "Displaced Class":** All persons who paid for and/or acquired tickets to Super Bowl XLV and were denied seats to the game. The class excludes counsel representing the class and all persons employed by said counsel, governmental entities, Defendants, any entity in which Defendants have a controlling interest, Defendants' officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, any judicial officer presiding over this matter, the member of their immediate families and judicial staff, and any individual whose interests are antagonistic to other class members.

**The "Relocated/Delayed Class":** All persons who paid for and/or acquired tickets to Super Bowl XLV and were relocated to seats that differed from their assigned seating as set forth on the tickets or were significantly delayed in gaining pre-game access to their seats due to the problems with the installation of temporary seats at Cowboys Stadium. This Class includes individuals who acquired tickets to adjacent seats so that might enjoy the game with family and friends by who were forced to sit apart during the game. The class excludes

counsel representing the class and all persons employed by said counsel, governmental entities, Defendants, any entity in which Defendants have a controlling interest, Defendants' officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, any judicial officer presiding over this matter, the member of their immediate families and judicial staff, and any individual whose interests are antagonistic to other class members.

24. Defendants subjected Plaintiffs and each of their respective Classes to the same unfair, unlawful, and deceptive practices and harmed them in the same manner. Now, Plaintiffs and each of their respective Classes seek to enforce the same rights and remedies pursuant to the same legal theories: (A) breach of contract; (B) breach of a covenant of good faith and fair dealing; (C) fraud, deceit and concealment; (D) negligent misrepresentation and conspiracy.

25. Numerosity: The proposed classes are so numerous that individual joinder of all their members is impracticable. While the exact number and identities of the Class Members are unknown at this time, such information can be ascertained through appropriate investigation and discovery. It is estimated that the "Dislocated Class" consists of approximately 400 members. It is estimated that the "Relocated/Delayed Class" consists of approximately 2,000 members. The disposition of the claims of these Class Members in a single class action will provide substantial benefits to all parties and to the Court.

26. Typicality: Plaintiffs' claims are typical of the claims of their respective Classes in that they suffered similar damages resulting from a single course of conduct by Defendants. Each of the class members asserts the same legal causes of action.



27. Adequacy of Representation: Plaintiffs will fairly and adequately represent and protect the interests of the Classes. Plaintiffs have retained counsel with substantial experience in prosecuting complex lawsuits and class action litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the Classes, and have the financial resources to do so. Neither Plaintiffs nor their counsel have any interests adverse to the Classes.

28. Superiority of Class Action and Impracticability of Individual Actions: Plaintiffs and the members of the Classes suffered harm as a result of Defendants' unlawful, fraudulent and unfair conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Individual joinder of all members of the Classes is impractical. Even if individual Class Members had the resources to pursue individual litigation, it would be unduly burdensome to the court on which the individual litigation would proceed. Individual litigation magnifies the delay and expense to all parties in the court system of resolving the controversies engendered by Defendants' common course of conduct. The class action device allows a single court to provide the benefits of unitary adjudication, judicial economy, and the fair and equitable handling of all Class Members' claims in a single forum. The conduct of this action as a class action conserves the resources of the parties and of the judicial system, and protects the rights of the Class Members. Adjudication of individual Class Members' claims with respect to Defendants would, as a practical matter, be dispositive of the interest of other members not parties to the adjudication, and could substantially impair or impede the ability of other Class Members to protect their interests.

29. Notice: Notice can be provided via internet publication, published notice and/or through mail and paid for by Defendants.

**CAUSES OF ACTION**

**Count One: Common Law Fraud and Fraudulent Misrepresentation  
(Against All Defendants)**

30. Plaintiffs repeat and reallege each allegation of Paragraphs 1-29 as if fully set forth herein.

31. Defendants made representations to the Class regarding the tickets and the nature and availability of seats for the Super Bowl. Defendants failed to inform the Plaintiffs that the seats did not exist at the time of the ticket sale and further failed to inform the Plaintiffs that the seats would or could be unavailable at the time of the game.

32. Defendants' representations were false when made and were material to the Plaintiffs. Defendants also engaged in fraudulent concealment and failure to disclose material information following the sale of the tickets.

33. Defendants made the false representations and failed to reveal material information with knowledge of the falsity, or, they should have known of the falsity, and with the intent that the Plaintiffs rely on those representations and omissions.

34. Plaintiffs did not know the true facts and did not have an equal opportunity to discover accurate information. Defendants had a duty to disclose accurate information to the Plaintiffs and failed to do so. Defendants' conduct was unfair, a breach of good faith and fair dealing.

35. Plaintiffs have been damaged as a result of Defendants' acts and omissions and seeks actual, consequential, and punitive damages resulting from Defendants' wrongful conduct.

**Count Two: Statutory Fraud  
Violation of Texas Business & Commerce Code § 27.01  
(Against All Defendants, Individually and Collectively)**

36. Plaintiffs incorporate the allegations made in Paragraphs 1-35 as if set forth fully herein.

37. Defendants made false representations to Plaintiffs concerning the tickets they purchased.

38. Defendants' representations and promises were false when made and were material to Plaintiffs.

39. Plaintiffs relied on Defendants' representations in purchasing the tickets.

40. Plaintiffs have been damaged as a result of Defendants' acts and omissions and seeks actual, consequential, and punitive damages resulting from Defendants' wrongful conduct. Plaintiffs also seek their attorney's fees and costs.

**Count Three: Breach of Contract  
(Against the NFL)**

41. Plaintiffs incorporate the allegations made in Paragraphs 1-40 as if set forth fully herein.

42. Plaintiffs had valid, enforceable contracts with the NFL for seats to the Super Bowl.

43. The NFL failed to perform its obligations under the contracts, including, but not limited, to failing to make the agreed upon seats available to the Plaintiffs.

44. Plaintiffs have been damaged as a result of the NFL's breaches.

45. Plaintiffs are entitled to direct and consequential damages and all other remedies allowed at law and equity for Defendants' breaches of contract. Plaintiffs are also entitled to recover their attorney's fees and costs incurred as a result of the breach of contract.

**Count Four: Fraudulent Inducement  
(Against All Defendants)**

46. Plaintiffs incorporate the allegations made in Paragraphs 1-45 as if set forth fully herein.

47. Defendants made representations and omissions of material fact to Plaintiffs concerning the nature and character of the tickets sold to the Plaintiffs.

48. Defendants failed to inform Plaintiffs of material information that would have affected their decision to purchase the tickets, namely that the seats being sold did not exist.

49. Defendants' representations were false when made and were material to the Plaintiffs. Defendants also engaged in fraudulent concealment and failure to disclose material information.

50. Plaintiffs have been damaged as a result of Defendants' acts and omissions and seeks actual, consequential, and punitive damages resulting from Defendants' wrongful conduct.

**Count Five: Negligence  
(Against All Defendants, Individually and Collectively)**

51. Plaintiffs incorporate the allegations made in Paragraphs 1-50 as if set forth fully herein.

52. Defendants owed duties of reasonable care and candor to the Plaintiffs in marketing, distributing and selling the tickets that they knew or should have known did not correspond to an existing seat. They should have exercised the degree of care and competence of a reasonably competent merchant or provider of goods but they failed to do so.

53. Defendants breached their duties to Plaintiffs by selling, marketing, and distributing tickets for existing seats only.

54. Defendants' acts and failures to act have proximately caused Plaintiffs' injuries for which they seek actual, consequential, and punitive damages.

**Count Six: Negligent Misrepresentation  
(Against All Defendants, Individually and Collectively)**

55. Plaintiffs incorporate the allegations made in Paragraphs 1-54 as if set forth fully herein.

56. Defendants made multiple false representations and failed to disclose material facts to Plaintiffs, as described above, regarding the nature of the tickets they purchase and the availability of seats corresponding to those tickets.

57. Defendants made those false representations to the Plaintiffs to inform the Plaintiffs of the seats they were purchasing and the expectation that they would rely on their representations.

58. Defendants did not exercise reasonable care or competence in obtaining or communicating the false information.

59. Plaintiffs relied on Defendants' representations and failure to tell them material information that would have affected their decision-making.

60. Plaintiffs have been damaged as a result of Defendants' acts and omissions and seeks actual, consequential, and punitive damages resulting from Defendants' wrongful conduct.

**Count Seven: Attorneys' Fees  
(Against All Defendants, Individually and Collectively)**

61. Plaintiffs incorporate the allegations made in Paragraphs 1-60 as if set forth fully herein.

62. As a result of Defendants' actions and conduct, Plaintiffs have been required to engage counsel and incur reasonable and necessary attorneys' fees and expenses to enforce the contract and prosecute their claims pursuant to common law equity and statutory remedies.

63. Plaintiffs are entitled to recover reasonable and necessary attorneys' fees and costs of court from Defendants under Chapter 38 of the TEX. CIV. PRAC. & REM. CODE, as Defendants breached the terms and their obligations under the contract.

64. Plaintiffs are entitled to recover their reasonable and necessary attorneys' fees and costs of court incurred in prosecuting their claims pursuant to common law equity, TEX. CIV. PRAC. & REM. CODE § 38.001 and applicable statutes.

### **REQUEST FOR DISCLOSURES**

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs request that Defendants disclose, within thirty (30) days of service of this request, the information or material described in Rule 194.2.

### **PRAYER FOR RELIEF**

FOR THESE REASONS, Plaintiffs respectfully request that the Court grant relief against Defendants including:

- A. A declaration that this action is properly maintainable as a class action;
- B. An award of actual, consequential, and punitive damages;
- C. An award of attorney's fees and costs;
- D. Pre- and post-judgment interest as allowable at law;
- E. All other and further equitable and/or injunctive relief as this Court may deem just and proper.

### **JURY DEMAND**

Plaintiffs demand a trial by jury.

Dated: February 17, 2011.

Respectfully Submitted,

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